

## **MINUTES**

### **TENNESSEE BOARD OF MEDICAL EXAMINERS**

**September 20 and 21, 2005**

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The meeting was called to order at 9:00 a.m. in the Cumberland Room, Ground Floor of the Cordell Hull building, 425 Fifth Avenue North, Nashville, Tennessee 37247-1010, by President Dr. David Cunningham. Other members present were: Drs. Michael Zanolli, Barbara Engelhardt, Keith Lovelady, Mitchell Mutter, Sam Barnes, Subhi Ali, Allen Edmonson, Charles White, Sr., Ms. Nina Yeiser, Ms. Mary Johnson and Mr. Mark Brown. Staff present included: Rosemarie Otto, Executive Director, Dr. Larry Arnold, Medical Director, Marsha Arnold, Unit Manager, Sandra Powell, Board Administrator and Mr. Robert Kraemer, Advisory Attorney.

#### **Presentation**

Mr. Stacy Lankford and Ms. Lisa Robbins, Representatives from the Federation of State Medical Boards addressed the Board. Mr. Lankford gave an overview of mission and goals of the Federation of State Medical Board. Mr. Lankford introduced Ms. Robbins who is Vice-President of Leadership and Legislative Services. Ms. Robbins discussed policy development and legislative activities. The Board was informed of the Federation's goals for the coming year including and into the future. The Board was informed that in the future there may be some conferences available on the internet for participation by board members who are unable to attend conferences in person.

#### **Minutes**

Minutes from the July 19 and 20, 2005 meeting were reviewed. Dr. Edmonson made a motion to accept the minutes and Ms. Yeiser seconded the motion. The motion carried.

#### **Ratification of Licenses**

New, reinstated, failed to renew and voluntarily retired licenses for Medical Doctors, Medical X-Ray Operators, Athletic Trainers, Physician Assistants, Committee on Clinical Perfusionists, Acupuncture Committee and emergency temporary medical licenses for physicians displaced by Hurricane Katrina. Dr. Mutter made a motion to ratify the approval of licenses. Dr. White seconded the motion. The motion carried.

### **New Applicant Interviews**

**Ali Omar Artar, MD-**Dr. Artar is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Artar's application file for the Board. Dr. Artar stated in his application that he was a self-prescriber and later submitted a statement that he does not currently use chemical substances and no longer self-prescribes. Dr. Barnes made a motion to grant Dr. Artar a license and Dr. Mutter seconded the motion. The motion passed unopposed.

**Thomas Batay-Csorba, MD-**Dr. Batay-Csorba is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Batay-Csorba's application file for the Board. Dr. Batay-Csorba is in general and bariatric surgery and plans to work for the hospital in Martin, Tennessee. Dr. Batay-Csorba informed the Board that he has had three malpractice cases which occurred in 1998 and 1999. Dr. Mutter made a motion to grant Dr. Batay-Csorba a license and Dr. Zanolli seconded the motion. The motion carried unopposed.

**Stephen Travis Peake, MD-**Dr. Peake is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Peake's application file for the Board. Dr. Peake is board eligible in Occupational Medicine. In January, 1996, Dr. Peake's Oklahoma license was placed on five years probation and restrictions were placed on controlled substance privileges. Dr. Peake was restricted from supervising Physician Assistants. The basis for the action was in regards to chemical dependency. The probation ended September 1, 2000 in which Dr. Peake complete five (5) years of probation. Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation spoke on behalf of Dr. Peake and informed the Board that Oklahoma submitted a statement which showed Dr. Peake has completed five years probation. Dr. Edmonson made a motion to grant Dr. Peake a license and Dr. Engelhardt seconded the motion. The motion carried.

**Lynne Voutsinas, MD-**Dr. Voutsinas is applying for a license to practice medicine in Tennessee. Dr. Arnold stated that Dr. Voutsinas appeared before the board on July 20, 2005 and was issued an Administrative license. Dr. Voutsinas misunderstood the implications of the Board's decision to grant her an Administrative license and asked to reappear. Dr. Arnold reviewed Dr. Voutsinas' application file for the Board and explained the nature of the malpractice cases. Dr. Voutsinas informed the Board that she has six (6) pending malpractice cases. Dr. Voutsinas plans to work for a company based in Tennessee. Dr. Mutter made a motion to grant Dr. Voutsinas a full license and Dr. White seconded the motion. Drs. Edmonson, Ali and Ms. Yeiser opposed. The motion carried.

### **Reinstatement Interview**

**Irene Ann Sysel, MD-**Dr. Sysel is applying for reinstatement of her Tennessee medical license. Dr. Arnold reviewed Dr. Sysel's application file for the Board. Dr. Sysel has not practiced clinical medicine since 2001. Dr. Arnold informed the Board that according to Dr. Sysel's application, she appears to be working at a pharmaceutical company as a

monitor for oncology clinical trials. Dr. Arnold recommended an Administrative license. Mr. Kraemer explained to Dr. Sysel the implications associated with the granting of an Administrative license. Dr. Engelhart's suggestion was if she wants more than an administrative license, Dr. Sysel needs to enroll in a mini-residency program to keep in contact with oncology. Dr. Cunningham agreed with Dr. Engelhardt and advised Dr. Sysel she may want to withdraw her application and then retire her medical license until such time as she completes the mini-residency program. Dr. Sysel decided to withdraw her reinstatement application and retire her medical license and enroll in a mini-residency program.

### **Rule Action**

Jerry Kosten, Rules Coordinator, informed the Board a rulemaking hearing was held that morning regarding the use of titles and an addition of a new category of Special Volunteer license for physicians who participate in benevolent or humanitarian service projects located outside of the state. Mr. Kosten stated there were no comments. Dr. Ali made a motion to adopt the rule and Dr. Edmonson seconded the motion. Following a roll call vote, the motion was adopted unanimously.

Mr. Kosten stated a rulemaking hearing was held June 6, 2005 for the Advisory Committee for Acupuncture regarding Mandatory Criminal Background Checks for all new applicants and continuing education for license renewal for Acupuncturists and ADS. Mr. Kosten informed the Board there were no comments or rejections. Dr. White made a motion to adopt the rule by the Acupuncture Committee and Dr. Engelhardt seconded the motion. After a roll call vote, the motion was adopted by unanimous vote.

Mr. Kosten informed the Board of the need for a rulemaking hearing regarding revisions to the Professional Corporations and the Professional Limited Liability Corporations' rules. Dr. Edmonson made a motion to authorize a rulemaking hearing and Ms. Johnson seconded the motion. The motion carried unopposed.

Mr. Kosten reviewed the x-ray rules and informed the Board of a need for a rulemaking hearing regarding revisions to the x-ray operators' rule. Dr. White made a motion to authorize a rulemaking hearing and Dr. Zanolli seconded the motion. The motion carried unopposed.

Mr. Kosten reviewed rules regarding letters of recommendation. Mr. Kosten informed the Board there is a need for a rulemaking hearing regarding submission of recommendation letters for initial applications. Dr. Edmonson made a motion to authorize the rulemaking hearing which states letters of recommendation submitted for initial application are to be written within the previous six (6) months. Dr. White seconded the motion. The motion carried.

## **Discussion**

Ms. Robbie Bell, Director for Health Related Boards gave an update of what has been happening with the Controlled Substance Monitoring Database Advisory Committee since last year. Ms. Bell stated the Committee needed a representative from the Board since Dr. Eckles is no longer a board member. Dr. Ali and Ms. Yeiser nominated Dr. Engelhardt to serve on the committee. Nomination passed by acclamation.

Ms. Bell informed the Board that the Department of Health has obtained access to Choicepoint, a database that identifies top prescribers of narcotics. Ms. Bell stated letters were sent to sixty-eight (68) physicians informing them that they were outside the normal prescribing range. The letters did not go to physicians who already have a complaint filed with the Department. Dr. Ali stated that Tennessee is either number one or two in the United States for prescribing Oxycontin and other controlled substances and the activities of the Controlled Substance Monitoring Database Committee are important and should be pushed forward immediately. Dr. Barnes supported Dr. Ali's statement.

Ms. Bell talked about the proposed Chiropractic Board rule that has been sent to rulemaking hearing. Ms. Bell reviewed a letter from AOMA (Acupuncture and Oriental Medicine Alliance). Ms. Bell stated the most appropriate response would be to develop a position and respond to the proposed Rule. Dr. White made a motion to write a comment to rulemaking hearing opposing the rule and Dr. Ali seconded the motion. Dr. White made an amendment to include opposing Chiropractors performing acupuncture without additional training. Ms. Johnson seconded the amendment. Mr. Brown and Dr. Edmonson opposed. The motion carried. Dr. Zanolli and Dr. White were authorized to develop and submit the comment to the Rule.

Dr. Zanolli, Dr. Ali and Mr. Brown presented suggestions regarding possible changes to the advertising rules. Mr. Kraemer stated to the Board that he will have something to submit to them at the next scheduled meeting.

The Board reviewed proposed language for a possible change to TCA 63-6-102 regarding removal of board members who do not attend board meetings on a regular basis. Dr. White made a motion to approve language and Dr. Ali seconded the motion. The motion carried.

## **Reports**

### **Budget Report**

The budget report was reviewed by the Board. The Board's projected cumulative

carryover at June 20, 2005 is \$613, 741.

### **Director's Report**

Ms. Rosemarie Otto reviewed her report for the Board. Ms. Otto suggested that the Board take the reports with them because it has information regarding the Health Related Boards' move. Ms. Otto reviewed the newsletter for the Board. Ms. Marsha Arnold gave her manager's report and informed the Board on the activities in the administrative office. Dr. Zanolli gave a report on the task force examining complimentary, alternative and integrative medicine.

### **Investigation Report**

Ms. Lea Phelps, Disciplinary Coordinator reviewed the report submitted by the Bureau of Investigation in the absence of Ms. Denise Moran, Director.

### **Disciplinary Report**

Ms. Phelps reviewed her disciplinary report for the Board. Ms. Phelps stated that \$36,720 has been collected in civil penalties.

### **OGC Report**

Mr. Robert Kraemer reviewed his OGC report for the Board and informed the Board of the status of various rules. Mr. Kraemer reviewed the following Public Chapters: Public Chapter 164, Public Chapter 172, Public Chapter 208, Public Chapter 219, Public Chapter 222, Public Chapter 231, Public Chapter 250, Public Chapter 333, Public Chapter 434, Public Chapter 467, Public Chapter 463 and Public Chapter 595.

### **"Noteworthy" section for the Internet**

The Board did not designate anything for the "noteworthy" section of the internet.

Adjourned at 12:10 p.m. and reconvened in the Cumberland Room at 1:30 p.m.

### **Disciplinary Action**

#### **Cumberland Room**

Panel: White, Johnson, Zanolli

#### **Contested Case Hearing**

**Sheran Arden Yeates, MD**-Dr. Yeates was present and represented by legal counsel, Mr. Ramsdale O'DeNeal, Jr. Ms. Wilma James represented the State. The Honorable John Hicks, Administrative Law Judge presided. Ms. James informed the panel that Dr.

Yeates had requested to surrender his medical license and not proceed with the contested case. Mr. O'DeNeal stated that in the Finding of Facts, Dr. Yeates agreed with some of the facts while he disagreed with the others. Ms. Johnson made a motion to proceed in the case and reject the proposed surrender of licensure. Dr. Zanolli seconded the motion. The motion carried. The Notice of Charges and Order of Summary Suspension were handed out to the panel for review. Dr. Yeates' medical license was summarily suspended on May 21, 2004. Dr. Yeates was charged with violating TCA 63-6-214 (b) (1), TCA 63-6-214 (b) (3), TCA 63-6-214 (b) (4), TCA 63-6-214 (b) (5), TCA 63-6-214 (b) (12) and TCA 63-6-214(b) (18). Dr. Yeates permitted his patients and his office staff to reuse prescription medication. Dr. Yeates specifically permitted his patients to return any unused prescription medication to his offices and instructed his office staff to identify the returned prescription medication by matching it with pictures contained in the Physicians' Desk Reference. Once the returned prescription medication had been "identified", the medication was labeled and placed in the storage chest for future use. Dr. Yeates and his office staff routinely administered "cocktail" injections to patients without medical justification. On occasion, Dr. Yeates and/or his office staff denied some patients their maintenance medications until the patients agreed to receive "cocktail" injections. On Fridays, Dr. Yeates took his office staff to lunch. During these lunches, Dr. Yeates purchased alcoholic beverages for himself and his office staff. Dr. Yeates and his office staff consumed large amounts of alcohol during the lunches. Dr. Yeates engaged in sexual activities with female staff members during business hours and on occasion, in view of patients. Dr. Yeates committed acts of sexual misconduct with a female staff member while the female staff member was incapacitated. Dr. Yeates employed untrained and unlicensed office staff to examine patients, to diagnose medical problems, to prescribe medication, and to administer the medication through oral and injected administration, including, but not limited to, "cocktail" injections. Following the "cocktail" injections, Dr. Yeates and his office staff failed to provide patients with appropriate follow-up care and/or to ensure their safety. Ms. James called various witnesses (both in person and telephonically) in support of the State's case in chief. Ms. James then closed her proof and rested. Dr. Yeates, through counsel, offered no defense. Following closing arguments by both sides, the administrative law judge charged the Board and turned the deliberations over to the Board Chair, Dr. White.

The panel deliberated. The Notice of Charges were reviewed. The panel asked that the word "sinus" be eliminated when referring to the cocktail injections and to strike Findings of Facts #15. Dr. Zanolli made a motion to accept the Finding of Facts as read with corrections and Ms. Johnson seconded the motion. The motion carried. Ms. Johnson made a motion to accept the Conclusions of Law #16, 18, 19, 20 and Dr. Zanolli seconded the motion. The motion carried. Dr. Zanolli made a motion to permanently revoke the Tennessee medical license of Dr. Sheran Yeates. A second was followed by Ms. Johnson. The motion carried unopposed. Dr. Zanolli made a motion to assess four (4) Type A civil penalties in the amount of One Thousand Dollars (\$1,000) each, for a total assessment of Four Thousand Dollars (\$4,000). The policy statement was read and accepted to protect the health, safety and welfare of the citizens of the State of Tennessee.

Ms. Johnson made a motion to accept the policy statement and Dr. Zanolli seconded the motion. The motion carried unopposed.

### **Magnolia Room**

Panel: Yeiser, Ali, Lovelady

### **Contested Case Hearing**

**Billy Couch, MD**-Dr. Couch was present and represented by legal counsel, Mr. Harold R. Gunn. Mr. Shiva Bozarth represented the State. The Honorable Ann Johnson, Administrative Law Judge presided. The case is a continuation from July 19, 2005. Dr. Couch is charged with violating TCA 63-6-214 (b) (1), TCA 63-6-214 (b) (3), TCA 63-6-214 (b) (4) and TCA 63-6-214 (b) (12). Dr. Couch sold and administered approximately eighty (80) shots containing the 2003/2004 flu vaccine to persons who believed they were purchasing and receiving shots containing the current 2004/2005 flu vaccine. Dr. Couch failed to correct impressions held by patients that he was selling and administering shots containing the vaccine designed and manufactured for the 2004/2005 flu season. The vaccine designed and manufactured for the 2003/2004 flu season did not protect patients from the strains expected to circulate in 2004/2005 flu season. The panel received copies of the transcript from the previous meeting. The Notice of Charges were handed out to the panel for review. The proposed Order stated that Dr. Couch's license was to be placed on probation for a period of one year subject to the following conditions:

- a. Dr. Couch shall attend the Prescribing Controlled Drugs course at the Vanderbilt Center for Professional Health or an equivalent course approved by the Board.
- b. Pay all civil penalties

Mr. Gunn gave his opening statement after Mr. Bozarth informed the panel he did not have an opening statement. Mr. Bozarth called witnesses in support of the State's case in chief and then rested. Mr. Gunn presented witnesses in support of Dr. Couch's defense, then rested. Following closing arguments by both sides, the administrative law judge charged the Board and turned the deliberations over to the panel Chair, Ms. Nina Yeiser. The panel deliberated. Dr. Ali made a motion to accept the Findings of Fact as amended and Dr. Lovelady seconded the motion. The motion carried. Dr. Ali made a motion to accept the Conclusions of Law as amended and Dr. Lovelady seconded the motion. The motion passed unopposed. Dr. Ali made a motion to place Dr. Couch's medical license on probation for one (1) year. Dr. Lovelady seconded the motion.

### **Tennessee Room**

Panel: Engelhardt, Barnes, Cunningham, Mutter, Brown, Edmonson

### **Consent Orders**

**Larry Howard, MD**—Dr. Howard was not present but represented by legal counsel Arvin Reingold. Mr. Andrae Crismon represented the State. The proposed Consent Order was handed to the panel for review. Dr. Howard is charged with violating TCA 63-6-214(b) (1) and TCA 63-6-214(b) (12). The proposed Consent Order stated that Dr. Howard's Tennessee medical license is immediately placed on suspension for a period of one (1) year commencing on the effective date of the order. As a condition of Dr. Howard's term of suspension, he must, during the first sixty (60) days of his suspension enter into the Vanderbilt Comprehensive Assessment Program ("V-CAP"), at the Vanderbilt University Medical Center in Nashville, Tennessee. Dr. Howard's failure to do so during the first sixty (60) days of his term of suspension, as outlined by the order, shall constitute a violation of the consent order and a basis for disciplinary action against Dr. Howard's license pursuant to the Practice Act. On or before November 14, 2005, Dr. Howard is required to personally appear before the Board's Medical Director to present evidence and provide a report as to his evaluation and assessment from V-CAP and V-CAP's treatment recommendation. Dr. Howard must also show by this date that he has obtained advocacy from the Tennessee Medical Foundation ("TMF") and that such advocacy has begun and will continue throughout the duration of his suspension. Dr. Edmonson made a motion to accept the proposed Consent Order and Engelhardt seconded the motion. The motion passed unopposed.

**Jose R. Quintana, MD**—Dr. Quintana was neither present nor represented by legal counsel. Ms. Laurie Doty represented the State. The proposed Consent Order was presented to the panel for review. Dr. Quintana is charged with violating TCA 63-6-214 (b) (1) and TCA 63-6-214 (b) (20). On or about October 15, 2003, the Florida Board issued an Administrative Complaint against the Florida medical license of Dr. Quintana alleging the following:

- a. On or about November 11, 2000, patient Y.W., a twenty-nine-year-old female, presented to the emergency room at Shands Hospital ("Shands") in Gainesville, Florida.
- b. On or about November 11, 2000, an ultrasound of a patient's pelvis was taken revealing an ectopic pregnancy in that her gestational sac was located outside the uterus, in between the uterus and the left ovary, consistent with an ectopic pregnancy. The radiology report indicated an ectopic pregnancy consistent with a removal of the left fallopian tube.
- c. Regardless of the ultrasound taken, Dr. Quintana performed a laparoscopic right salpingectomy on the patient resulting in a removal of her right fallopian tube. The patient was released from the hospital the following day.
- d. On or about November 13, 2000, a pathology report revealed "No Products of Conception Identified," from a specimen (i.e. a portion of the patient's right fallopian tube and contents) taken from the aforementioned surgical procedure. Dr. Quintana did not follow up on this pathology report.
- e. On or about December 3, 2000, the patient presented to the emergency room at Shands complaining of abdominal pain, vaginal bleeding, and dysuria.
- f. On or about December 4, 2000, the patient underwent a laparotomy with evacuation of clots and left salpingectomy, after being diagnosed with an ectopic



pregnancy, resulting in a removal of her left fallopian tube and thus rendering her sterile.

On February 17, 2004, the Florida Board filed a Final Order accepting a Consent Agreement entered into by Dr. Quintana. The Florida Order included the following conditions:

- a. Dr. Quintana was assessed \$5,000.00 civil penalty.
- b. Dr. Quintana was assessed costs of the proceeding, which totaled \$2,033.78.
- c. Dr. Quintana was required to perform fifty (50) hours of community service.
- d. Dr. Quintana was to receive a Letter of Concern from the Florida Board.
- e. Dr. Quintana was required to attend eight (8) hours of continuing medical education on risk management.

Dr. Quintana was notified by letter dated June 13, 2005 by the Florida Department of Health that he had completed all the terms of the Florida Order and that his Florida medical license was unencumbered.

Tennessee's proposed Consent Order states that Dr. Quintana is issued a Reprimand. Dr. Quintana must pay the actual and reasonable costs of prosecuting this case to the extent allowed by law. These costs will be established by an Affidavit of Costs prepared and filed by counsel for the Department. Costs shall be paid within thirty (30) days from the issuance of the Affidavit of Costs. The panel was concerned that the Board is penalizing Dr. Quintana more than the Florida Board. Dr. Engelhardt made a motion not to accept the Consent Order and Dr. Mutter seconded the motion. The motion passed.

**Robert M. Glasgow, MD** – Dr. Glasgow was neither present nor represented by legal counsel. Ms. Laurie Doty represented the State. The proposed Consent Order was handed out to the panel for review. Dr. Glasgow is charged with violating TCA 63-6-214 (b) (1), TCA 63-6-214 (b) (2), TCA 63-6-214 (b) (11) and TCA 63-6-214 (b) (14). On or about August 12, 2005, Dr. Glasgow pleaded guilty to five (5) counts of unlawful dispensing of controlled substances. In consideration of Dr. Glasgow surrendering his license to practice medicine in the State of Tennessee, the Department is foregoing the pursuit of allegations regarding misconduct involving staff and/or patients. The medical license of Robert M. Glasgow, MD, license number 2618, is hereby surrendered. Dr. Glasgow may never apply for a new Tennessee medical license. Dr. Glasgow must pay the actual and reasonable costs of prosecuting this case to the extent allowed by law. Dr. Barnes made a motion to accept the Order and Dr. Engelhardt seconded the motion. The motion passed.

**Clarence R. Sanders, MD** – Dr. Sanders was neither present nor represented by legal counsel. Ms. Laurie Doty represented the State. Dr. Cunningham informed the panel that he was recusing himself because he knows Dr. Sanders. The proposed Consent Order was presented to the panel for review. Dr. Sanders is charged with violating TCA

63-6-214 (b) (1), TCA 63-6-214 (b) (5) and TCA 63-6-214 (b) (12). The proposed Consent Order stated that Dr. Sanders' Tennessee medical license is immediately placed on Suspension until he appears in front of the Board and shows satisfactory compliance with the following requirements:

- a) Enter and complete an in-patient drug and alcohol treatment facility, which is outside of the state of Tennessee such as the Metro Atlanta Recovery Residence.
- b) Demonstrates compliance with all of the recommendations of the discharge summary from the facility indicated in a).
- c) Complete the Prescribing Controlled Drugs and Maintaining Proper Boundaries courses taught at The Center for Professional Health.
- d) Permanently obtain and maintain the advocacy of the Tennessee Medical Foundation and comply with all of its recommendations. Dr. Sanders' medical license is placed on probation for five (5) years. This Probation shall commence immediately following the lifting of the Suspension of his license.
- e) Dr. Sanders shall surrender his Drug Enforcement Agency License to prescribe controlled substances.

Mr. Brown made a motion to accept the proposed Consent Order and Dr. Mutter seconded the motion. The motion passed unopposed.

**Santiago P. Lavarias, MD**-Dr. Lavarias was neither present nor represented by legal counsel. Mr. Thomas Miller represented the State. The proposed Consent Order was handed out to the panel for review. Dr. Lavarias is charged with violating TCA 63-6-214(b)(1), TCA 63-6-214 (b)(2), TCA 63-6-214 (b)(3), TCA 63-6-214 (b)(4), TCA 63-6-214 (b)(12), TCA 63-6-214 (b)(14), TCA 63-6-201, TCA 63-6-204 and O.C.R.R.S.T. Rule 0880-2-.14 (6)(e)(3). The proposed Consent Order stated that Dr. Lavarias' Tennessee medical license is placed on Probation for a period of five (5) years from the effective date of this consent order. Dr. Lavarias shall attend and complete, within twelve (12) months from the effective date of the Consent Order, the three day seminar entitled: "Prescribing Controlled Drugs: Critical Issues and Common Pitfalls", which is offered at the Center for Professional Health at Vanderbilt University Medical Center, in Nashville, Tennessee and provide proof of attendance to the Board within twelve (12) months from the effective date of the Consent Order. Dr. Lavarias shall pay ten thousand dollars (\$10,000.00) in civil penalties within six (6) months from the effective date of the Consent Order. Dr. Mutter made a motion to accept the proposed Consent Order and Mr. Brown seconded the motion. The motion passed unopposed.

**Robert F. Leyen, MD** – Dr. Leyen was neither present nor represented by legal counsel. Mr. Thomas Miller represented the State. The proposed Consent Order was handed out to the panel for review. Dr. Leyen is charged with violating TCA 63-6-214 (b) (1), TCA 63-6-214 (b) (2), TCA 63-6-214 (b) (4), TCA 63-6-214 (b) (12), TCA 63-6-214 (b) (13) and TCA 63-6-214 (b) (14). The proposed Consent Order stated that Dr. Leyen's license to practice medicine in the state of Tennessee is Voluntarily Surrendered commencing on the effective date of the Order. Dr. Leyen must pay the actual and reasonable costs of prosecuting this case to the extent allowed by law. These costs will be established by an Affidavit of Costs prepared and filed by counsel for the Department. Costs shall be paid

within thirty (30) days from the issuance of the Affidavit of Costs. Dr. Mutter made a motion to accept the proposed Consent Order and Mr. Brown seconded the motion. The motion passed unopposed.

**Dewey E. Wood, MD-**Dr. Wood was neither present nor represented by legal counsel. Mr. Andrae Crismon represented the State. The proposed Consent Order was presented to the panel for review. Dr. Wood is charged with violating TCA 63-6-214 (b) (1), TCA 63-6-214 (b) (3) and TCA 63-6-214 (b) (20). On or about December 20, 2004, before the Kentucky Board, Dr. Wood entered into an Agreed Order. The Kentucky Board conducted an initial investigation by obtaining patient records. The initial consultant concluded that, while Dr. Wood's care of the patient met acceptable standards, his record-keeping was problematic. Dr. Wood was asked to obtain further evaluation by the Center for Personalized Education for Physicians (CPEP), Aurora, Colorado, at his expense. Dr. Wood completed the CPEP Assessment July 22-23, 2004. The summary includes the following conclusion and recommendation:

“The Assessment revealed extensive, broad, and far-reaching educational needs. Successfully addressing the needs would take significant commitment and time on the part of Dr. Wood and teaches in his community. Because of the extent of these deficiencies and risks to patient safety, Dr. Wood would need to retrain in a residency.”

Based upon a variety of factors, Dr. Wood decided to permanently retire from the practice of medicine at the end of the calendar year. In light of Dr. Wood's decision, the Kentucky Board determined that further action was not necessary. Unbeknownst to the Kentucky Board, Dr. Wood, on or about December 10, 2004 had filed an application to practice medicine in the State of Tennessee. During the application process, Dr. Wood failed to reveal to the Board that action against his Kentucky license was pending, thereby obtaining a license to practice medicine in Tennessee by subterfuge. The proposed Consent Order stated that Dr. Wood's Tennessee medical license is revoked. Dr. Wood must pay the actual and reasonable costs of prosecuting the case to the extent allowed by law. Mr. Brown made a motion to accept the proposed Order and Dr. Mutter seconded the motion. The motion passed unopposed.

**James M. Rynerson, MD-**Dr. Rynerson was neither present nor represented by legal counsel. Mr. Andrae Crismon represented the State. The proposed Consent Order was handed out to the panel for review. Dr. Rynerson is charged with violating TCA 63-6-214 (b) (20). On February 2, 2005, Dr. Rynerson's Kentucky medical license was Limited/Restricted for an Indefinite Period. The panel with the Kentucky Board filed a complaint against Dr. Rynerson based on results of a second investigation in which Dr. Rynerson acted inappropriately in writing his wife prescriptions for controlled substances. The proposed Consent Order stated that Dr. Rynerson's Tennessee medical license is Limited/Restricted for an Indefinite Period of time to run concurrently with the Kentucky Board Order. Dr. Rynerson shall not prescribe, dispense, or otherwise professionally utilize controlled substances for himself, members of his immediate family and/or any other person who is his significant other or with whom he is romantically

involved. Dr. Rynerson shall attend and successfully complete, within either one (1) year from the effective date of the Order or within the previous twelve (120 month period prior to the effective date of the Order, the “Prescribing Controlled Drugs” course offered at The Center for Professional Health at Vanderbilt University Medical Center. Dr. Rynerson must submit to the Board Director written verification of his successful completion of the course. Dr. Rynerson shall maintain a “controlled substance log” for all controlled substances prescribed. The controlled substance log must include date, patient name, patient complaint, medication prescribed, when it was last prescribed and how much on the last visit. Dr. Rynerson shall permit the Board’s agents to inspect copy and/or obtain the controlled substance log and other relevant records, upon request, by review by the Board’s agents and/or consultants. Any Violation of the Kentucky Board Order shall constitute a violation of the Order and shall be justification for further disciplinary action by the Board. Dr. Mutter made a motion to accept the proposed Consent Order and Dr. Engelhardt seconded the motion. The motion passed unopposed.

### **Agreed Order**

**James Carter, MD-**Dr. Carter was not present, however, he was represented by legal counsel Mr. Timothy McIntire. Mr. Andrae Crismon represented the State. Mr. Crismon handed out the proposed Agreed Order to the panel for review. On January 13, 2005, Dr. Carter entered into an Agreed Order with the Commonwealth of Kentucky Board of Medical Licensure regarding his license to practice medicine in that state. The proposed Agreed Order stated that Dr. Carter shall notify the Board in writing, if and when the Kentucky Board audits his charts and/or patient records and shall produce the same charts and/or patient records for inspection by the medical director of the board. Notification must be within thirty (30) days of the Kentucky Board audit. Dr. Carter must produce his controlled substance log to the medical director within thirty (30) days of production of the log to the Kentucky Board. Dr. Carter must comply with TCA 63-6-214 (d). After the panel discussed the proposed Agreed Order, it was withdrawn.

**James Tapia, AT-** Mr. Tapia was neither present nor represented by legal counsel. Mr. Robert Kraemer represented the State. The proposed Agreed Order was handed to the panel for review. Mr. Tapia practiced as an athletic trainer for nine months after his license had expired. The proposed Agreed Order states that Mr. Tapia shall receive a temporary authorization to resume his practice as an athletic trainer upon his signature on the Agreed Order and his payment of one thousand, five hundred dollars (\$1,500) of the three thousand dollar (\$3,000) civil penalty assessed against him (calculated according to the boards policy at five hundred dollars (\$500) a month for every month after three (3) months that the licensee practices on an expired license). Upon ratification by the Board of the Order, Mr. Tapia shall receive his renewal certificate. The remaining one thousand, five hundred dollars (\$1,500) of the civil penalty shall be paid in three monthly installments of five hundred dollars (\$500) beginning on October 1, 2005. Dr. Edmonson made a motion to accept the proposed Order and Dr. Mutter seconded the motion. The motion passed unopposed.

**Lonnie Litchfield, MD**-Dr. Litchfield was neither present nor represented by legal counsel. Ms. Laurie Doty represented the State. The proposed Agreed Order was handed out to the panel for review. Dr. Litchfield is charged with violating TCA 63-6-214 (b) (20). Dr. Litchfield's license in Oklahoma was suspended for a period of one (1) year. Dr. Litchfield wrote prescriptions for controlled dangerous prescriptions even though he never treated the patients. The proposed Agreed Order states that Dr. Litchfield's Tennessee medical license be suspended for a period of time to run concurrently with the Oklahoma Order. However, that suspension shall be stayed and Dr. Litchfield is placed on probation for a period of three (3) years and is hereby subject to the following terms and conditions:

Dr. Litchfield's license to practice medicine in the State of Tennessee is subject to the following terms and conditions for a period of time to run concurrently with the Oklahoma Board Order.

- a. Dr. Litchfield will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act as interpreted by the Oklahoma Board.
- b. Dr. Litchfield will keep duplicate, serially numbered prescriptions of all controlled dangerous substances and addictive drugs readily retrievable, in numerical order and will furnish copies to investigators or other authorized agents of the Board immediately upon request.
- c. Dr. Litchfield will not authorize any personnel under his supervision to initiate an order for a prescription to be issued.
- d. Dr. Litchfield will not allow the independent practice of medicine by any Personnel under his supervision or employment.
- e. Dr. Litchfield will furnish to each and every state in which he holds licensure or applies for licensure and hospitals, clinics or other institutions in which he holds or anticipates holding any form of staff privilege or employment, a copy of the Board Order stipulating sanctions imposed by the Oklahoma State Board of Medical Licensure and Supervision.
- g. Dr. Litchfield shall attend, within either one (1) year from the effective date of this Agreed Order or within the previous twenty-four (24) month period prior to the effective date of this Agreed Order, a seminar approved in advance by the Oklahoma Board or its Board designee for a minimum of ten (10) hours on prescribing controlled substances and required record keeping.
- h. Dr. Litchfield will not supervise allied health care professionals for whom a formal supervisory arrangement is required under Oklahoma law.
- i. Dr. Litchfield shall complete, within either one (1) year from the effective date of the Agreed Order or within the previous twenty-four (24) month period prior to the effective date of the Agreed Order, two hundred forty (240) hours of community service under Jane Fitch, M.D., Chair of the University of Oklahoma Health Sciences Center, Department of Anesthesiology.
- j. Dr. Litchfield shall, at all times, keep the Board informed of his addresses of business and residence which shall serve as addresses of record.
- k. Dr. Litchfield shall submit to the Board's Medical Directory any and all documents, reports or other documentation provided by or through Dr. Litchfield

to the Oklahoma Board, until his medical license is unencumbered and in good standing.

No sooner than three (3) years from the effective date of the Agreed Order, Dr. Litchfield must make personal appearance and petition the Board for an Order of Compliance modifying the probationary status of his medical license.

Dr. Litchfield must pay the actual and reasonable costs of prosecuting this case to the extent allowed by law. Dr. Mutter made a motion to reject the proposed Agreed Order and recommended revocation of Dr. Litchfield's license. The motion was seconded by Dr. Engelhardt. The motion passed unopposed.

### **Order of Compliance**

**Richard B. Terry, MD-**Dr. Terry was present but not represented by legal counsel. Mr. Robert Kraemer represented the State. The July 21, 2004 Agreed Order and the Order of Compliance was handed out to the panel for review. Dr. Terry was charged with violating TCA 63-6-214-(b) (1). On July 21, 2004, Dr. Terry entered into an Agreed Order. The Agreed Order stated that Dr. Terry be reprimanded for his conduct with the following conditions:

- (a) Dr. Terry shall attend monthly counseling sessions with a psychologist to address anger management and communication issues; and
- (b) Dr. Terry shall submit four (4) quarterly progress reports from the psychologist to the Board's Medical Director and the Physician's health Advisory Committee at Baptist Hospital; and
- (c) Dr. Terry shall attend the Physician's Development Program three (3) day course in Miami, Florida, presented by Larry Harmon, PH.D., regarding disruptive physician behavior issues, within six (6) months of the effective date of the order; and
- (d) Dr. Terry may not petition or appear before the Board before the expiration of one (1) year from the effective date of the Order to request and Order of Compliance and release from the above enumerated conditions.

A disciplinary report proved that all requests have been fulfilled. Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation reported the programs that are available are very good. Dr. Terry informed the panel how these programs that he attended had a positive impact on his professional and private life. Dr. Edmonson made a motion to accept the Order of Compliance and Dr. Engelhardt seconded the motion. The motion passed unopposed.

### **Letters of Reprimand**

**Gretchen C. Stephens, MD-**Mr. Thomas Miller, attorney for the State handed out a Letter of Reprimand for the panel to review. The Department of Health's investigation revealed that numerous documents, including autopsy reports and crime scene

photographs, in addition to human tissue specimens and several miscellaneous items from dozens of cases all relating to Dr. Stephens' former position as Assistant Medical Examiner, were discovered in her vacated, former personal residence. The discovery was reported by a local news outlet on or about January 17, 2005. Dr. Mutter made a motion to accept the Letter of Reprimand and Dr. Barnes seconded the motion. The motion passed.

**Larry A. Gilliam, MD-** Mr. Thomas Miller, attorney for the State handed out the Letter of Reprimand to the panel for review. Dr. Gilliam accepted patient samples from a pharmaceutical company representative, approximately 3,600ml of Flutuss, a medication containing Hydrocodone, a controlled substance. Dr. Gilliam failed to maintain the required inventory and dispensing records for these samples in which he prescribed this and/or other controlled substances to himself and members of his family under other than emergency conditions and failed to maintain medical records regarding these treatments. Dr. Mutter made a motion to accept the Letter of Reprimand and Dr. Engelhardt seconded the motion. The motion passed unopposed.

**Adjourned at 7:00 p.m.**

**September 21, 2005**

**Tennessee Room**

**9:45 a.m.**

Panel: Engelhardt, Cunningham, Mutter

**Contested Case Hearings**

**Michael D. Talbot, MD-** Dr. Talbot was present and represented by legal counsel, Mr. Dan Warlick. Mr. Thomas Miller and Mr. Shiva Bozarth represented the State. The Honorable Margaret Robertson, Administrative Law Judge presided. Mr. Miller handed out the Notice of Charges to the panel for review and gave his opening statement. Mr. Warlick followed with his opening statement. Dr. Talbot is charged with TCA 63-6-214(b) (1), TCA 63-6-214(b) (2), TCA 63-6-214 (b) (3), TCA 63-6-214 (b) (4), TCA 63-6-214 (b) (8), TCA 63-6-214 (b) (9) and TCA 63-6-214 (b) (11). In or around November, 2004, Dr. Talbot began operating "Medical Tests Direct," a commercial enterprise offering direct access medical laboratory testing. Dr. Talbot solicited customers that were not his medical patients. The customers were offered an opportunity to select and order any medical laboratory test of the customer's choosing from a menu of "Over 100 Lab Tests." After the customer selected and paid for the laboratory tests they wanted, Dr. Talbot or his unlicensed supervisee would then collect the blood or other biological specimens, prepare a laboratory requisition, and then cause the specimen(s) to

be submitted along with the laboratory requisition to a medical laboratory for testing. Mr. Miller called witnesses to support the State's case in chief. Each of his witnesses were cross-examined by Mr. Warlick. Mr. Miller rested his proof. Mr. Warlick called no witnesses on behalf of Dr. Talbot. Both Mr. Miller and Mr. Warlick offered closing arguments which were followed by Judge Robertson's charge to the Board. The proceedings were turned over to the panel chair, Dr. Cunningham for deliberations. Dr. Cunningham made a motion to accept certain Findings of Fact contained in the Notice of Charges and Dr. Engelhardt seconded the motion. The motion passed unopposed. Dr. Mutter made a motion that there were no violations for the Causes of Action. Dr. Engelhardt seconded the motion. The motion passed unopposed. Dr. Mutter made a motion to issue Dr. Talbot a Letter of Concern and Dr. Engelhardt seconded the motion. The motion passed unopposed. The policy statement was read to protect the health, safety and welfare of the citizens of the State of Tennessee.

### **Magnolia Room**

Panel: Yeiser, Ali, Lovelady

### **Contested Case Hearings**

**Richard Ruhling, MD**-Dr. Ruhling was present and represented himself. Ms. Laurie Doty represented the State. The Honorable Ann Johnson, Administrative Law Judge presided. Ms. Doty did not give an opening statement but Dr. Ruhling followed with his opening statement. The Kentucky's Order of Surrender and New York's Order of Surrender were handed out to the panel for review. Dr. Ruhling is charged with violating TCA 63-6-214 (b) (1) and TCA 63-6-214 (b) (20). On or about March 26, 2003, the Kentucky Board received a grievance alleging that Dr. Ruhling provided patients with extra prescriptions if they purchased books that he had written. Dr. Ruhling worked at Tri-State in the past and had previously asked if he could sell books and videos to patients. Dr. Ruhling was seen taking money for the books and giving the patients prescriptions. On or about February 27, 2003, approximately three (3) patients arrived at the office stating that they were willing to buy Dr. Ruhling's books to obtain an extra prescription and three (3) patients with scheduled appointments were offered this deal. One patient was offered two books, stating that if she bought Dr. Ruhling's books he would provide her with the next month's prescription and she would not have to return for that appointment. The patient stated that she bought both books for \$20.00 and received a prescription for Lorcet 10, which she filled. Another patient saw Dr. Ruhling four (4) to five (5) times at Tri-State Health Care. At each office visit, Dr. Ruhling would attempt to sell him books before the exam. During one visit, the patient bought one book in order to keep Dr. Ruhling from pressuring him. The patient went to a seminar provided by Dr. Ruhling on natural healing and felt pressured to buy books. After the seminar Dr. Ruhling took each participant into his office and offered to sell them books and the patient bought a book and a tape. The book contained a prescription for Lorcet, which was dated for the next month. The patient stated that this is the medication he is currently on and returned the prescription because he received one from Dr. Ruhling a day or two



prior to this meeting. Two additional patients provided written statements recalling encounters with Dr. Ruhling during which he offered additional prescriptions for their controlled substances if the patients purchased his book(s). Dr. Ruhling denies the allegations suggesting any illegal or unethical medical practices occurred. On or about May 19, 2004, Dr. Ruhling entered into an Agreed Order of Surrender, which ordered him to surrender his license and not reapply or file a petition for reinstatement of his Kentucky medical license. He was also ordered to permanently retire from the practice of medicine in Kentucky. He was also ordered to never perform any act, which constitute “the practice of medicine” within the Commonwealth of Kentucky. Dr. Ruhling entered into a Surrendered Order with the State of New York Board for Professional Medical Conduct which went into effect on about November 3, 2004. Dr. Ruhling was ordered to surrender his medical license in the State of New York and he was struck from the roster of New York medical doctors. Ms. Doty made her closing statement followed by Dr. Ruhling. The panel deliberated. Dr. Lovelady made a motion to accept the Findings of Fact and Dr. Ali seconded the motion. The motion passed. Dr. Lovelady made a motion to accept the Causes of Action and Dr. Ali seconded the motion. The motion passed unopposed. Dr. Lovelady made a motion to not assess a civil penalty and Dr. Ali seconded the motion. Dr. Ali made a motion to permanently revoke the medical license of Dr. Ruhling and Dr. Lovelady seconded the motion. Ms. Yeiser opposed. The motion passed.

**Fortune Williams, MD**-Dr. Williams was neither present nor represented by legal counsel. Ms. Laurie Doty represented the State. The Honorable Ann Johnson, Administrative Law Judge presided. Ms. Doty informed the panel that a certified letter mailed to Dr. Williams was returned stating he no longer resided at that address. Ms. Doty asked to proceed in default. Dr. Ali made a motion to proceed in default and Dr. Lovelady seconded the motion. The motion carried unopposed. The Notice of Charges and Kentucky’s Order of Revocation was handed to the panel for review. Dr. Williams is charged with violating TCA 63-6-214 (b) (20). On January 12, 2004, the Kentucky Board ratified an Order of Revocation. Dr. Williams’ medical license was revoked for a minimum of two (2) years and a recommended five (5) years. Dr. Williams had falsified his application for medical licensure, did not meet the standard of care required for treating patients, practiced substandard and fraudulent records keeping, over prescribed to patients and was found guilty by a Lewis County Grand Jury of Unlawful Prescribing of Controlled Substances, First Offense, a Class D Felony. The panel deliberated. Dr. Lovelady made a motion to accept the Findings of Fact and Dr. Ali seconded the motion. The motion carried unopposed. Dr. Lovelady made a motion to accept the Causes of Action and Dr. Ali seconded the motion. The motion carried unopposed. Dr. Ali made a motion to assess two (2) Type A civil penalties in the amount of one thousand dollars (\$1,000.00) each, for a total amount of two thousand dollars (\$2,000.00). The motion was seconded by Dr. Lovelady. The motion carried unopposed. Dr. Ali made a motion to revoke Dr. Williams’ license for five (5) years in which he cannot apply for a new license during the five (5) years. Dr. Lovelady seconded the motion. The motion passed. Dr. Ali made a motion to assess costs and Dr. Lovelady seconded the motion. The motion passed unopposed.

## **Licensure Denial Appeal**

**Robert Burkich, MD**-Dr. Burkich was present and represented by legal counsel, Mr. Dan Warlick. Ms. Laurie Doty represented the State. The Honorable Ann Johnson, Administrative Law Judge presided. Dr. Burkich's medical license application was denied in Tennessee by the Board's medical director and subsequently ratified by the Board on July 19, 2005. Dr. Burkich's license was revoked in Georgia and Tennessee based on a felony conviction and mail fraud. Dr. Burkich is charged with violating TCA 63-6-214 (b) (20). Ms. Doty gave her opening statement followed by Mr. Warlick. Dr. Burkich was called upon as a witness by Mr. Warlick. Dr. Burkich informed the panel that he pled guilty to one count of mail fraud and was convicted. Dr. Burkich's Georgia license was revoked due to the conviction. Both attorneys gave their closing statements. Dr. Ali stated a federal crime was committed and Dr. Burkich admitted that his Georgia license was revoked due to the conviction and Tennessee mirrored that action. Dr. Ali made a motion to accept the Findings of Fact and Dr. Lovelady seconded the motion. The motion passed unopposed. Dr. Lovelady made a motion to accept the Causes of Action and deny the application of Dr. Burkich. A second was followed by Dr. Ali. The motion passed. Dr. Lovelady made a motion to accept the policy statement which is to protect the health, safety and welfare of the citizens of the State of Tennessee. Dr. Ali seconded the motion. The motion passed unopposed. Mr. Warlick asked the panel to delay the effectiveness of the Order. Dr. Ali made a motion to deny the request for a stay. Dr. Lovelady seconded the motion. The motion passed unopposed.

**Adjourned at 6:30 p.m.**

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Dr. Allen S. Edmonson, Secretary

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Date